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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 DEBORAH MARKHAM,

11 Plaintiff,

12 v.

13 CASH & CARRY STORES, LLC,
14 et al.,

15 Defendants.

CASE NO. C17-0746JLR

ORDER TO SHOW CAUSE

16 The court has reviewed Defendant Cash & Carry Stores, LLC's notice of removal
17 (Not. (Dkt. # 1)) and finds that it does not adequately establish subject matter jurisdiction
18 over this action. Specifically, Cash & Carry fails to show complete diversity or the
19 requisite amount in controversy. *See* 28 U.S.C. § 1332(a).

20 Cash & Carry asserts that the court's jurisdiction is based on diversity of
21 citizenship. (Not. at 2.) For purposes of assessing diversity, the court must consider the
22 domicile of all members of a limited liability company. *Johnson v. Columbia Props.*

1 *Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006) (“[A]n LLC is a citizen of every state
2 of which its owners/members are citizens.”); *see also* Local Rules W.D. Wash. LCR
3 101(e). Plaintiff Deborah Markham alleges that she is a Washington resident. (Compl.
4 (Dkt. # 2) ¶ 1.2.) However, neither the complaint nor the notice of removal identifies
5 Cash & Carry’s members or the domicile of those members. (*See id.* ¶ 1.3 (alleging that
6 Cash & Carry is “a limited liability corporation formed under the laws of the State of
7 Washington”); Not. at 2.)

8 Furthermore, Cash & Carry’s corporate disclosure statement fails to establish Cash
9 & Carry’s domicile. (CDS (Dkt. # 4).) Cash & Carry alleges that it is a wholly owned
10 subsidiary of Smart & Final Stores, LLC (*id.* ¶ 3), which makes Cash & Carry’s domicile
11 the same as Smart & Final’s domicile, *see Johnson*, 437 F.3d at 899. Because Smart &
12 Final is also an LLC, it too shares a domicile with each of its members. *See Johnson*, 437
13 F.3d at 899. However, Cash & Carry alleges only that Smart & Final “is a California
14 [LLC] with its principal place of business in Commerce, California.” (CDS ¶ 4.)
15 Without knowing Smart & Final’s members and their domiciles, the court cannot
16 determine Cash & Carry’s domicile. *See Johnson*, 437 F.3d at 899.

17 In addition, Cash & Carry’s conclusory assertion that the amount in controversy
18 exceeds \$75,000.00 is insufficient. (*See* Not. at 2 (asserting that the amount in
19 controversy meets the jurisdictional threshold “pursuant to Plaintiff’s Statement of
20 Damages and 28 U.S.C. § 1332(a)”).) Ms. Markham’s statement of damages is not in the
21 record. (*See* Dkt.; *see also* Not. at 2); RCW 4.28.360. Furthermore, although Ms.
22 Markham’s complaint alleges several injuries, some of which are severe, it is not facially

1 apparent that her damages exceed \$75,000.00. (Compl. ¶¶ 5.1-5.6.) “Where . . . it is
2 unclear or ambiguous from the face of a state-court complaint whether the requisite
3 amount in controversy is pled, . . . the removing defendant bears the burden of
4 establishing, by a preponderance of the evidence, that the amount in controversy exceeds
5 the jurisdictional threshold.” *Urbino v. Orkin Servs. of Cal., Inc.*, 726 F.3d 1118,
6 1121-22 (9th Cir. 2013) (internal citations and quotations omitted). Cash & Carry’s
7 conclusory statement, unsupported by factual evidence, does not meet its burden of
8 establishing the requisite amount in controversy by a preponderance of the evidence. *See*
9 *id.*; *Matheson v. Progressive Specialty Ins. Co.*, 319 F.3d 1089, 1090-91 (9th Cir. 2003)
10 (“Where doubt regarding the right to removal exists, a case should be remanded to state
11 court. . . . [W]e have endorsed the . . . practice of considering facts presented in the
12 removal petition as well as any summary-judgment-type evidence relevant to the
13 amount in controversy at the time of removal. Conclusory allegations as to the amount in
14 controversy are insufficient.” (internal quotations omitted)).

15 If subject matter jurisdiction is lacking, the court must remand. 28 U.S.C.
16 § 1447(c) (“If at any time before final judgment it appears that the district court lacks
17 subject matter jurisdiction, the case shall be remanded.”). Accordingly, the court
18 ORDERS Cash & Carry to SHOW CAUSE why this matter should not be remanded to
19 state court by providing evidence demonstrating the court’s subject matter jurisdiction

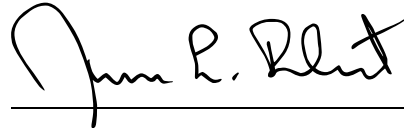
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1 within ten (10) days of the date of this order. Ms. Markham may, but is not required to,
2 respond to this order subject to the same deadline.

3 Dated this 23rd day of May, 2017.

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6 JAMES L. ROBART
7 United States District Judge
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